

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Alfred (“Al”) Landers was the Mayor of the City of Perris. He held that office for a single two-year term, from 1997-1999. He was elected on November 4, 1997, and was defeated in his bid for re-election on November 2, 1999. He ran again in November 2001, for a city council seat, and won. Landers previously held office as a city council member, from 1995-1997, serving as Mayor Pro Tem in 1997.

During his incumbency, Landers attempted to use his official position to influence governmental decisions in which he had a financial interest. The decisions, which were before the California Department of Health Services (the “DHS”) and the California Medical Assistance Commission (the “CMAC”), concerned Valley Plaza Doctors Hospital, a for-profit hospital located in the City of Perris. At the time Landers attempted to influence the decisions, he was on the hospital’s Board of Trustees, and a source of income to him was doing business with the hospital. Landers did not disclose this business position or source of income on his Statements of Economic Interests.

During his mayoral campaigns, Landers controlled three separate committees. He controlled the Committee to Elect Al Landers, which was formed on May 19, 1997 to support his mayoral candidacy in 1997. Karen Woodard was the committee treasurer. Landers also controlled two separate committees that were formed to support his bid for re-election in 1999, Friends of Al Landers, and Al Landers Mayor 99. Gary Capolino was the treasurer for those committees. During the course of both mayoral campaigns, Respondents committed numerous reporting violations.

For the purposes of this Stipulation, the violations of the Political Reform Act (the “Act”)<sup>1</sup> are stated as follows:

COUNT 1: Respondent Alfred Landers failed to disclose a business position held by him on his 1997 and 1998 annual Statements of Economic Interests and on his leaving office Statement of Economic Interests, in violation of Section 87209.

COUNT 2: On or about November 3, 1997 and December 12, 1997, Respondent Alfred Landers attempted to use his official position as Mayor Pro Tem of the City of Perris to influence a decision of the California Medical Assistance Commission in which he knew or had reason to know he had a financial interest, in violation of Section 87100.

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<sup>1</sup> The Political Reform Act (“Act”) is contained in Government Code sections 81000 through 91014. All references to “Section(s)” are to the aforementioned Government Code unless otherwise indicated. Commission regulations appear at Title 2, California Code of Regulations, section 18109, *et seq.*

- COUNT 3: On or about November 19, 1999, Respondent Alfred Landers attempted to use his official position as Mayor of the City of Perris to influence a decision of the California Department of Health Services and the California Medical Assistance Commission in which he knew or had reason to know he had a financial interest, in violation of Section 87100.
- COUNT 4: Respondent Alfred Landers failed to disclose a source of income on his Leaving Office Statement of Economic Interests, in violation of Section 87207.
- COUNT 5: Respondents Alfred Landers, Al Landers Mayor 99, and Friends of Al Landers established more than one campaign bank account in connection with the November 2, 1999 election, in violation of Section 85201.
- COUNT 6: Respondents Alfred Landers, Al Landers Mayor 99, and Friends of Al Landers failed to properly report contributions from a major donor on campaign statements filed in connection with the November 2, 1999 election, in violation of Section 84211.
- COUNT 7: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose a non-monetary contribution, in the form of a billboard, from Colin Flaherty, d.b.a. Flaherty Communications, on the committee's pre-election campaign statement for the reporting period 7/1/97-9/20/97, in violation of Section 84211.
- COUNT 8: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose occupation and employer information for, and to report the cumulative amount of contributions received from, contributors of \$100 or more on the committee's pre-election campaign statement for the reporting period 7/1/97-9/20/97, in violation of Section 84211.
- COUNT 9: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose occupation and employer information for, and to report the cumulative amount of contributions received from, contributors of \$100 or more on the committee's pre-election campaign statement for the reporting period 9/21/97-10/18/97, in violation of Section 84211.
- COUNT 10: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose occupation and employer information for, and to report the cumulative amount of contributions received from, contributors of \$100

or more on the committee's semi-annual campaign statement for the reporting period 10/19/97-12/31/97, in violation of Section 84211.

## **SUMMARY OF THE CASE**

Count 1: Respondent Alfred Landers failed to disclose a business position held by him on his 1997 and 1998 annual Statements of Economic Interests, and on his leaving office Statement of Economic Interests, in violation of Section 87209.

### **Summary of the Law**

One of the stated purposes of the Act is that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, in order that conflicts of interest may be avoided. (Section 81002, subdivision (c).)

In order to accomplish this purpose, the Act provides that elected officials, such as members of city councils and mayors, shall disclose, on their annual and leaving office Statements of Economic Interests, any business positions held by them. Section 87209 defines "business position" to mean any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management, if the business entity has an interest in real property in the jurisdiction or does business in the jurisdiction. Section 82005 defines business entity to mean any organization or enterprise operated for profit, including a corporation.

### **Summary of the Facts**

Landers was a member of the Board of Trustees of Valley Plaza Doctors Hospital in 1997, 1998, and 1999. Valley Plaza Doctors Hospital was, at all times pertinent hereto, owned by Southwest Hospital Development Group, Inc., a California (for profit) corporation, d.b.a as Valley Plaza Doctors Hospital ("Valley Plaza"), in the City of Perris. Pursuant to the bylaws of the corporation, the Board of Trustees acts as the governing body of Valley Plaza.

As a member of the Perris City Council, and as the Mayor Pro Tem and the Mayor of the City of Perris, Landers was required by the economic disclosure provisions of the Act to file annual statements disclosing information about his economic interests, specifically including any business positions held by him. Landers filed, or caused to be filed, annual Statements of Economic Interests, covering the periods January 1, 1997 through December 31, 1997, and January 1, 1998 through December 31, 1998, that did not disclose his position on the Board of Trustees of Valley Plaza.

Landers was a candidate for re-election in the November 2, 1999 election. He was defeated in that election, and left office on or about November 23, 1999.

As the Mayor of the City of Perris, Landers was also required by the economic disclosure provisions of the Act to file a leaving office statement disclosing, among other economic interests, any

business positions held by him. Landers filed, or caused to be filed, a leaving office Statement of Economic Interests, covering the period January 1, 1999 through November 23, 1999, that did not disclose his position on the Board of Trustees of Valley Plaza.

By failing to disclose a business position held by him on his 1997 and 1998 annual Statements of Economic Interests and on his leaving office Statement of Economic Interests, Respondent Landers violated Section 87209.

Counts 2-3: Respondent Alfred Landers attempted to use his official position as Mayor Pro Tem of the City of Perris to influence governmental decisions in which he knew or had reason to know he had a financial interest, in violation of Section 87100.

### **Summary of the Law**

One of the “Findings and Purposes” upon which the Act is based is that public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001, subdivision (b).)

The Act prohibits a public official from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which the official knows or has reason to know that he or she has a financial interest. (Section 87100.)

A public official is “attempting to use his or her official position to influence” a governmental decision if, for the purpose of influencing the decision, the official acts or purports to act on behalf of, or as the representative of, his or her agency to any member, officer, employee or consultant of another agency that is not controlled by his or her own agency. Such an action includes the use of official stationery. (Regulation 18702.3.)

A public official has a “financial interest in a decision” if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official, or a member of his or her immediate family, or on:

- Any source of income aggregating \$500 or more in value provided or promised to, or received by, the public official within 12 months prior to the time when the decision is made.
- Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(Section 87103, subdivisions (c) and (d).)

The definition of income, as set forth in Section 82030, includes loans and commission income. “Commission income” means gross payments received as a result of services rendered as a broker, agent, or other salesperson for a specific sale or similar transaction. (Regulation 18703.3, subdivision

(c)(2).) The “source” of commission income in a specific sale or similar transaction includes, for real estate agents, the broker and brokerage business entity under whose auspices the agent works; the person the agent represents in the transaction; and any person who receives a finder’s or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker. (Regulation 18703.3, subdivision (c)(3)(C).) As stated in an advice letter issued by the Legal Division of the Fair Political Practices Commission, the “source” of employment income may include both the corporation and its majority shareholder. (*Hentschke* Advice Letter, No. A-80-069.)<sup>2</sup>

An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on a business entity which is a parent or subsidiary of, or is otherwise related to, a business entity in which the official has one of the interests defined in Section 87103, subdivision (a), (c), or (d). (Regulation 18703.1, subdivision (c).) Under Regulation 18703.1, subdivision (d)(2), business entities are “otherwise related” if any one of the following three tests is met:

- (A) One business entity has a controlling ownership interest in the other business entity.
- (B) There is shared management and control between the entities. In determining whether there is shared management and control, consideration should be given to the following factors:
  - (i) The same person or substantially the same person owns and manages the two entities;
  - (ii) There are common or commingled funds or assets;
  - (iii) The business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis;
  - (iv) There is otherwise a regular and close working relationship between the entities; or
- (C) A controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

Under Regulation 18703.1, subdivision (e), although a public official may not have an economic interest in a given business entity pursuant to subsections (a)-(c) of this section, the public official may nonetheless have an economic interest in the business entity if it is a source of income to him or her.

A “business entity” is any organization or enterprise operated for profit, including a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

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<sup>2</sup> Advice letters are regularly issued, by staff of the Fair Political Practices Commission, interpreting provisions of the Act.

The financial effect of a governmental decision on a business entity which is directly involved in a decision is presumed material, within the meaning of Section 87103, unless the business entity is a Fortune 500 business, or is eligible for listing on the New York Stock Exchange. (Regulation 18705.1, subdivision (b).)

A business entity is “directly involved” in a decision before an official’s agency when that business entity, either directly or by an agent, initiates the proceeding in which the decision will be made by filing an application, claim, appeal, or similar request; or is a named party in, or is the subject of, the proceeding concerning the decision before the official or the official’s agency. (Regulation 18704.1, subdivision (a).) A person is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of a contract. (Regulation 18704.1, subdivision (a)(2).)

The financial effect of a governmental decision is material on a source of income that is indirectly involved in a governmental decision, where the source of income is a business entity, if certain materiality standards are satisfied. If the business entity meets the financial criteria for listing on the New York Stock Exchange, the financial effect of a governmental decision is material if it is reasonably foreseeable that the decision will result in an increase or decrease to the business entity’s gross revenues for a fiscal year in the amount of \$150,000 or more; or, the decision will result in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$50,000 or more; or, the decision will result in an increase or decrease in the value of assets or liabilities of \$150,000 or more. (Regulation 18705.1, subdivision (b)(5).) The standards are as follows: The business entity has net tangible assets of at least \$18,000,000 and had pre-tax income for the last fiscal year of at least \$2,500,000.

The financial effect of a governmental decision is material on a source of income that is indirectly involved in a governmental decision, where the source of income is an individual, if it is reasonably foreseeable that the decision will affect the individual’s income, investments, or other tangible or intangible assets or liabilities (other than real property) by \$1,000 or more. (Regulation 18705.3, subdivision (b)(3).)

The material financial effect of a decision on an economic interest is considered reasonably foreseeable, within the meaning of Section 87103, if it is substantially likely that one or more of the materiality standards applicable to that economic interest will be met as a result of the governmental decision. (Regulation 18706. See also; *In re Thorner* (1975) 1 FPPC Ops. 1198, an opinion issued by the members of the Fair Political Practices Commission.)

### **Summary of the Facts**

Count 2: On or about November 3, 1997 and December 12, 1997, Respondent Alfred Landers attempted to use his official position as Mayor Pro Tem of the City of Perris to influence a decision of the California Medical Assistance Commission in which he knew or had reason to know he had a financial interest, in violation of Section 87100.

The California Medical Assistance Commission (the “CMAC”), a state agency, negotiates the Medi-Cal Selective Provider Program (the “Selective Provider Program”) on behalf of the State of California. Through the Selective Provider Program, Medi-Cal providers contract with the DHS, and thereafter receive payments from the State, at a negotiated rate, for services provided to qualifying Medi-Cal patients. A hospital that does not participate in the Selective Provider Program is paid on a cost reimbursement basis for medical services rendered, but may only be reimbursed for emergency treatment until the patient is stable for transport to a Medi-Cal contract hospital.

On or about November 26, 1996, Southwest Hospital Development Group, Inc., d.b.a Valley Plaza submitted a formal request to the California Department of Health Services (the “DHS”) for reinstatement of its license and participation in the Medi-Cal Selective Provider Program. This application followed a period in which Valley Plaza, under new management, had voluntarily suspended or surrendered its license and completed extensive renovations to the hospital. Prior to July 10, 1996, Valley Plaza had been operating under a license issued by the DHS to Southwest Hospital Development Group, Inc., which was a party to a Selective Provider Program contract.

On or about April 7, 1997, the CMAC denied Valley Plaza’s request for reinstatement into the Selective Provider Program on the grounds that there was sufficient access for Medi-Cal beneficiaries in the City of Perris and surrounding areas.

On or about July 10, 1997, Valley Plaza renewed its request with the CMAC to be reinstated into the Medi-Cal Contracting Program. On or about July 22, 1997, the CMAC denied the hospital’s request, for the same reason as before.

Valley Plaza continued to lobby the CMAC for reinstatement into the Selective Provider Program. On or about October 1, 1997, Valley Plaza asked the CMAC to reconsider its earlier decision, denying a Medi-Cal contract for the hospital.

Landers, in his capacity as Mayor Pro Tem, wrote a letter, dated November 3, 1997, to Bryon Chell, the Executive Director of the CMAC, on behalf of the City of Perris. The letter was written on official City stationery. In the letter, Landers asked the CMAC to approve a Medi-Cal contract for Valley Plaza.

On or about November 4, 1997, the CMAC denied Valley Plaza’s request for reinstatement into the Selective Provider Program.

Valley Plaza’s next recourse was to get the decision reversed. In December 1997, Valley Plaza filed a Petition for Writ of Mandate in Los Angeles County Superior Court against the CMAC *et al.*, seeking to compel the CMAC to reinstate the hospital’s Medi-Cal contract, and contacted the Governor, whose appointees sat on the CMAC.

On or about December 12, 1997, Landers, in his capacity as Mayor, wrote a letter to Governor Pete Wilson on behalf of the City of Perris. The letter was written on official City stationery.

In the letter, Landers asked the Governor to intervene and re-evaluate the action of the CMAC in denying a Medi-Cal contract for Valley Plaza.

At the time he wrote the letters to the Executive Director of the CMAC and the Governor, Landers had an economic interest in the decision regarding reinstatement, as Landers was a member of the Board of Trustees of Valley Plaza in 1997. At the time he attempted to influence the Executive Director and the Governor through a letter, Landers knew or had reason to know he had an economic interest in the decision, because of his position on the Board of Trustees of Valley Plaza.

The financial effect of the decision regarding reinstatement was material on Landers' economic interest in Valley Plaza. Valley Plaza initiated the proceeding in which the decision was made, by asking the CMAC to reconsider its earlier decision denying Valley Plaza's request for reinstatement into the Selective Provider Program. As both the requestor and the subject of the decision, Valley Plaza was directly involved in the decision, and therefore, as provided in Regulation 18705.1, subdivision (b), any financial effect of the decision was deemed material on the hospital.

The material financial effect of the decision regarding reinstatement on Valley Plaza was reasonably foreseeable. Valley Plaza is a small hospital that depends heavily on public reimbursement programs for its revenues. According to a Petition for Writ of Mandate filed by Valley Plaza in Los Angeles Superior Court in December 1997, Valley Plaza's participation in the Selective Provider Program was "crucial" to the hospital's ability to fund its day to day operations. The hospital claimed that it would be faced with a "financial disaster" if it would not be reimbursed for providing services to persons whose only source of payment was the Medi-Cal Program.<sup>3</sup> As such, a decision by the CMAC regarding whether to grant Valley Plaza's request for reinstatement into the Selective Provider Program had a foreseeably huge financial effect on the hospital, well in excess of the "any financial effect" materiality standard.

By attempting to use his official position to influence a governmental decision in which he had a financial interest, Respondent Landers violated Section 87100.

Count 3: On or about November 19, 1999, Respondent Alfred Landers attempted to use his official position as Mayor of the City of Perris to influence a decision of the California Department of Health Services and the California Medical Assistance Commission in which he knew or had reason to know he had a financial interest, in violation of Section 87100.

On or about November 13, 1998, the DHS advised Valley Plaza that the DHS had reactivated the hospital's old Medi-Cal contract provider number, and would treat its Medi-Cal contract as never having been terminated. The DHS directed Valley Plaza to start billing for Medi-Cal in-patient services using its old contract provider number. Valley Plaza, however, declined to use its old contract provider number on its Medi-Cal claims for payment, because the reimbursement per diem

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<sup>3</sup> Valley Plaza filed for bankruptcy in 1996. Its gross revenues steadily declined from \$4,193,489 in 1997, to \$2,478,436 in 1999; while its net losses dramatically increased from \$83,000 in 1997, to \$2,606,177 in 1999.

rates for Medi-Cal in-patient services under the hospital's old contract were low. Valley Plaza wanted the DHS and CMAC to negotiate and approve a new Medi-Cal contract for the hospital, with higher reimbursement rates. Claims submitted by Valley Plaza after November 13, 1998, under its non-contract provider number, were not processed for payment.

On or about August 9, 1999, Valley Plaza amended the Petition for Writ of Mandate filed in December 1997, seeking to compel the CMAC *et al* to negotiate and approve a new Medi-Cal contract with Valley Plaza, at higher rates. In addition, on or about August 19, 1999, Valley Plaza filed a separate Petition for Writ of Mandate in Los Angeles Superior Court against the DHS, CMAC, *et al*, seeking to compel the DHS and CMAC to pay Valley Plaza on its outstanding claims.

On or about November 19, 1999, Landers, in his capacity as Mayor of Perris, wrote a letter to Rebecca B. Zeidler, Administrator of the DHS San Bernardino Medi-Cal Field Office. The letter was written on stationery containing City letterhead. In the letter, Landers urges Ms. Zeidler to negotiate and approve a new Medi-Cal contract for Valley Plaza, and release all pending funds owed to the hospital. Landers sent the same letter, on the same day, to several DHS staff members, including: Keith Yamanaka, Deputy Director and Chief Counsel of Medi-Cal Operations; Walter O. Barnes, Deputy Director of Audits and Investigations; Tod Beach, Assistant Chief Counsel; and Jack Whitset, Supervising Senior Counsel.

At the time he wrote the letters to various DHS officials, Landers had several economic interests in the decision about whether the DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's claims as a non-contracting hospital.

### VALLEY PLAZA

At the time he attempted to influence various officials of the DHS through the letters, Landers knew or had reason to know that he had an economic interest in their decision about whether to approve a new Medi-Cal contract for Valley Plaza, because of his position on the Board of Trustees of Valley Plaza. On September 14, 1999, the Perris City Council voted to support Valley Plaza, in the form of an *amicus* brief, in its litigation against the DHS and CMAC. Landers abstained from the vote on whether to extend legal assistance, based on the advice of the Perris City Attorney, because of Landers' position on the Board of Trustees of Valley Plaza.

The decision about whether the DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's outstanding claims under its non-contract provider number, would have a material financial effect on Valley Plaza. Valley Plaza initiated the proceeding in which the decision regarding its contract and claims was to be made, by filing a Petition for Writ of Mandate in Superior Court. As both the requestor and subject of the decision, Valley Plaza was directly involved in the decision, and therefore, as provided in Regulation 18705.1, subdivision (b), any financial effect of the decision would be deemed material on the hospital.

The material financial effect of the decision regarding whether the DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's claims as a non-contracting hospital on Valley Plaza was reasonably foreseeable. If Valley Plaza's outstanding claims were paid under its non-contract provider number, Valley Plaza would have been received about \$1.6 million in Medi-Cal payments. If Valley Plaza were paid under its old Medi-Cal contract provider number, its claims would amount to about \$400,000. As such, a decision by the DHS and CMAC regarding whether to approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's outstanding claims as a non-contract hospital, had a foreseeably huge financial effect on Valley Plaza, well in excess of the "any financial effect" materiality standard. Landers acknowledged in his letters to the DHS staff that the CMAC's approval of a new Medi-Cal contract for Valley Plaza and the release of all pending funds was important to the hospital's continued viability.

GERALD GARNER

At the time he wrote the letters to various DHS officials, Landers had another economic interest, aside from Valley Plaza, in the decision about whether the DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's claims as a non-contracting hospital. Landers had an economic interest in Gerald Garner, the Chief Executive Officer (and Chairman of the Board of Trustees) of Valley Plaza, as Gerald Garner and his affiliated entities were a source of income to Landers.

Gerald Garner was, at all times pertinent hereto, a controlling owner of Perris Valley Realty & Development Company, Inc.<sup>4</sup> Landers is, and was at all times pertinent hereto, a real estate agent. Landers worked at Perris Valley Realty & Development Company, Inc. since the company was founded in June 1998, until it was sold in or about January 2002.

At the time Landers attempted to influence various officials of the DHS through letters, Landers knew or had reason to know he had an economic interest in their decision about whether to approve a new Medi-Cal contract for Valley Plaza, because of income received from the realty company. On both his 1998 annual Statement of Economic Interests, and leaving office Statement of Economic Interests, Landers reported Perris Valley Realty & Development Company, Inc. as a source of commission income, of over \$10,000.

The decision regarding whether the DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's outstanding claims as a non-contract hospital would have a reasonably foreseeable material financial effect on Gerald Garner. At all times pertinent hereto, Gerald Garner was the Chief Executive Officer and Chairman of the Board of Valley Plaza pursuant to a management agreement between Valley Plaza and another one of Garner's companies, Coast Management Company. As the Chief Executive Officer and Chairman of the Board of Valley Plaza, Gerald Garner's compensation package was tied to a percentage of the revenues of the hospital. Under

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<sup>4</sup> While Landers knew that Gerald Garner ran Perris Valley Realty & Development Company, he claimed that he did not know Garner was a controlling owner, and that he had never heard of Garner's holding company, Assorted Diversified Holdings, which held an 80% ownership interest in the realty company.

the management agreement, Gerald Garner received a set management fee plus a sum equal to 50% of Valley Plaza's profits for each month in which Valley Plaza was profitable.<sup>5</sup>

As stated above, a decision by the DHS and CMAC regarding whether to approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's claims as a non-contracting hospital, would have a foreseeably huge financial effect on the revenues of Valley Plaza. As such, the reasonably foreseeable financial effect of the decision on Gerald Garner, due to his compensation agreement with Valley Plaza being tied to Valley Plaza's profits, was well in excess of the \$1,000 materiality standard under Regulation 18705.3, subdivision (b)(3).

#### COAST PLAZA DOCTORS HOSPITAL

At the time he wrote the letters to various DHS officials, Landers had another economic interest in the decision about whether the DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's outstanding claims as a non-contract hospital. Landers had an economic interest in Coast Plaza Doctors Hospital ("Coast Plaza"), another Gerald Garner affiliated entity. Gerald Garner was the general partner of Coast Plaza. Coast Plaza, a for-profit hospital located in the City of Norwalk, was a source of income to Landers in 1999. Landers represented Coast Plaza in real estate transactions, for which he received commission income, and additionally, as set forth in Count 4 below, Landers received personal loans from Coast Plaza.

At the time Landers attempted to influence various officials of the DHS through letters, Landers knew or had reason to know he had an economic interest in their decision about whether to approve a new Medi-Cal contract for Valley Plaza and pay Valley Plaza's outstanding claims as a non-contract hospital, because of income received from Coast Plaza. On or about October 6, 1999, Landers received commission income in the amount of \$1,405.50 for representing Coast Plaza in a real estate transaction. Additionally, Landers received between \$16,000-\$20,000 in (undisclosed) personal loans from Coast Plaza in 1999.

The decision regarding whether DHS and CMAC should approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's outstanding claims as a non-contract hospital would have a reasonably foreseeable material financial effect on Coast Plaza. Coast Plaza is a secured creditor of Valley Plaza. Coast Plaza loaned Valley Plaza (at least) \$2,528,626 to make extensive renovations to the hospital, among other things. The collateral for the loan, secured by a UCC filing in 1999, consisted of inventory, assets, and accounts of Valley Plaza, including Valley Plaza's proceeds and products.

As stated above, a decision by the DHS and CMAC regarding whether to approve a new Medi-Cal contract for Valley Plaza, and pay Valley Plaza's outstanding claims as a non-contract hospital, would have a foreseeably huge financial effect on the revenues of Valley Plaza. As such, the reasonably foreseeable financial effect of the decision on Coast Plaza, whose security was tied to the revenues of Valley Plaza and whose loan was in excess of \$2.5 million, was well in excess of the

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<sup>5</sup> While Landers knew that Gerald Garner was the Chief Executive Officer and Chairman of the Board of Valley Plaza, he stated that he was unaware of the terms of the management agreement.

materiality standards for a business of Coast Plaza's size under Regulation 18705.1, subdivision (b)(5).<sup>6</sup>

By attempting to use his official position to influence a governmental decision in which he had a financial interest, Respondent Landers violated Section 87100.

Count 4: Respondent Alfred Landers failed to disclose a source of income on his Leaving Office Statement of Economic Interests, in violation of Section 87207.

### **Summary of the Law**

Section 87204 specifically mandates, through reference to Section 87200, that every mayor who leaves an office shall, within 30 days after leaving office, file a Statement of Economic Interests disclosing, among other things, his income during the period since his last Statement of Economic Interests was filed.

When income is required to be reported in a Statement of Economic Interests, Section 87207 requires the statement to contain the name and address of each source of income to the filer aggregating \$500 or more in value, and a general description of the business activity, if any, of each source; the aggregate value of income received from each source, a description of the consideration, if any, for the income; and, in the case of a loan, the highest amount owed to each loan source, the annual interest rate for each loan, the security, if any, given for each loan, and the term of each loan.

### **Summary of the Facts**

On or about October 24, 1999, Gerald Garner issued a check to Landers that Landers used to help fund his campaign for mayor. The check, in the amount of \$4,000, was drawn on a "special account" of Coast Plaza, and was signed by Gerald Garner. On October 27, 1999, Landers deposited the \$4,000 check into his personal bank account, the same day he wrote a check for an identical amount to his committee, Al Landers Mayor 99. The memo section of Landers' check contained the handwritten notation "Loan."

At the time Landers received the \$4,000 check from Coast Plaza, Landers' mayoral election was less than one week away. Landers told Commission Supervising Investigator Dennis Pellon that money was tight during the campaign, and that he needed the money to help his campaign. Landers' bank records establish that, absent the money deposited from Coast Plaza, Landers' personal account balance was insufficient to make the alleged loan to his committee.

Landers contended that the \$4,000 payment was a personal loan, and not made for political purposes. Landers claimed that Gerald Garner made loans to him on a regular basis from his various business entities, against his future commissions. To support this contention, Landers furnished the Commission with an annual itemized statement from Coast Plaza, dated December 1, 2001, which

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<sup>6</sup> In 1999, Coast Plaza's net tangible assets were \$37,521,475, and its pre-tax income was \$4,822,609.

disclosed that Garner made three loans to Landers in 2001, totaling \$6,000, from Coast Plaza. Gerald Garner generated a document for 1999, which disclosed that he made four loans to Landers in 1999, totaling \$16,000, from Coast Plaza. The \$4,000 payment, however, was not listed as one of them. Instead, the \$4,000 payment was shown on the books of Perris Valley Mortgage Company, Inc. as a loan from Coast Management Company, another one of Gerald Garner's affiliated entities, and as being repaid from a Landers' commission on May 14, 2001.

Landers filed, or caused to be filed, a Leaving Office Statement of Economic Interests, covering the period January 1, 1999 through November 23, 1999, that did not disclose either Gerald Garner or Coast Plaza as a source of income to him. While the evidence is inconclusive as to the character of the \$4,000 payment, there is no question that Landers violated Section 87207 by not disclosing the income he received from Coast Plaza in 1999.

Count 5: Respondents Alfred Landers, Al Landers Mayor 99, and Friends of Al Landers established more than one campaign bank account in connection with the November 2, 1999 election, in violation of Section 85201.

### **Summary of the Law**

Prior to the solicitation or receipt of any contributions, an individual who intends to be a candidate for an elective office is required to file a Statement of Intention to be a candidate for a specific office. (Section 85200.) Upon the filing of a Statement of Intention, the individual is required to establish a single campaign contribution account. (Section 85201, subdivision (a).) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee, must be deposited into the one campaign contribution account. (Section 85201, subdivision (c).)

Section 82016 defines a controlled committee to mean a committee that is controlled directly or indirectly by a candidate, or that acts jointly with a candidate or controlled committee in the making of expenditures. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

### **Summary of the Facts**

Two campaign committees were formed to support Landers' candidacy for mayor in 1999, Respondent Friends of Al Landers and Respondent Al Landers Mayor 99. Separate campaign bank accounts were established for each committee, in violation of Section 85201.

A bank account for Friends of Al Landers was opened at Wells Fargo Bank on March 22, 1999. A bank account for Al Landers Mayor 99 was opened at Valley Bank on April 29, 1999. Contributions made to support Landers' mayoral candidacy in the November 2, 1999 election were deposited in both the Valley Bank and the Wells Fargo Bank accounts.

Friends of Al Landers and Al Landers Mayor 99 acted jointly in making expenditures. The committees had the same treasurer, Gary Capolino, the same political consultant, Aaron Knox, and the same address. Aaron Knox authorized payments from both committees. Gary Capolino transferred funds from Friends of Al Landers to Al Landers Mayor 99, as needed to pay campaign expenses. Friends of Al Landers also made in-kind contributions on behalf of Al Landers Mayor 99.

Both the Valley Bank and the Wells Fargo bank accounts were open and fully operational during Landers' mayoral candidacy in the November 2, 1999 election.

By establishing more than one campaign bank account in connection with the November 2, 1999 election, Respondents Alfred Landers, Al Landers Mayor 99, and Friends of Al Landers violated Section 85201.

Counts 6-10: Respondents Alfred Landers and his committees failed to comply with the campaign reporting provisions of the Act, in violation of Section 84211.

### **Summary of the Law**

The purpose of campaign reporting under the Act, as set forth in Section 81002, subdivision (a), is to assure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed, and so that improper practices will be inhibited. Timely and truthful disclosure of the source of campaign contributions is an essential part of the Act's mandate.

Section 84211, subdivision (c) requires campaign statements to contain the total amount of contributions received during the reporting period from persons who have given a cumulative amount of \$100 or more. For those who have contributed at that level, Section 84211, subdivision (f) states that the recipient committee's campaign statement shall include: the person's full name; the person's street address; the person's occupation; the person's employer, or if self-employed, the name of the person's business; the date and amount of each contribution received during the period covered by the campaign statement; and the cumulative amount of contributions received.

Section 82015 provides that a payment made at the behest of a candidate is a contribution to the candidate, unless either of the following criteria are satisfied: full and adequate consideration is received from the candidate; or it is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office.

A non-monetary contribution is a payment made at the behest of a candidate for purposes related to a candidate's candidacy for elective office, if all or a portion of the payment is used for election-related activities. (Section 82015, subdivision (b)(2)(C).) Election related activities include communications that contain express advocacy of the election of a candidate; arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication that contains express advocacy of the election of a candidate.

## Summary of the Facts

Count 6: Respondents Alfred Landers, Al Landers Mayor 99 and Friends of Al Landers failed to properly report contributions from a major donor on campaign statements filed in connection with the November 2, 1999 election, in violation of Section 84211.

Respondent Friends of Al Landers was another committee, aside from Respondent Al Landers Mayor 99, that was formed to support the candidacy of Landers in the November 2, 1999 election. Coast Plaza was the sole contributor to the Friends of Al Landers committee.

Gerald Garner, the Chief Executive Officer of Coast Plaza, wrote two checks to Friends of Al Landers: \$5,000 on March 12, 1999; and \$3,500 on August 9, 1999. The contribution checks were drawn on a “special account” of Coast Plaza. On its semi-annual statement for the reporting period 3/22/99-6/30/99, and on its pre-election statement for the reporting period 7/1/99-9/18/99, Friends of Al Landers incorrectly reported Gerald Garner as the person who made the contributions. Coast Plaza was not disclosed as the contributor, in violation of Section 84211.

Gerald Garner wrote a check to Al Landers Mayor 99 in the amount of \$1,000 on September 16, 1999. The contribution check was drawn on a “special account” of Coast Plaza. On or about October 15, 1999, Gerald Garner issued another check made payable to TCI Media Services of Southern California, in the approximate amount of \$604.70, to pay for Landers’ media buys. On its pre-election statements for the reporting periods 7/1/99-9/18/99 and 9/19/99-10/16/99, Al Landers Mayor 99 incorrectly reported Gerald Garner as the person who made the contributions. Coast Plaza was not disclosed as the contributor.

By failing to report Coast Plaza as the true source of the contributions, Respondents Landers, Al Landers Mayor 99, and Friends of Al Landers violated Section 84211.

Count 7: Respondents Alfred Landers and the Committee to Elect Al Landers failed to disclose a non-monetary contribution, in the form of a billboard, from Colin Flaherty, d.b.a. Flaherty Communications, on the committee’s pre-election campaign statement for the reporting period 7/1/97-9/20/97, in violation of Section 84211.

Respondent Committee to Elect Al Landers was Landers’ controlled committee, organized in connection with Landers’ mayoral candidacy in the November 4, 1997 election.

At the behest of Landers, Colin Flaherty of Flaherty Communications paid for a billboard that endorsed the candidacies of Landers and City Councilman, Raul “Mark” Yarbrough.

On or about September 12, 1997, Colin Flaherty issued a \$1,000 check from Flaherty Communications to Rita Peters. Colin Flaherty is the owner/operator of Flaherty Communications, a public relations firm located in San Diego. Rita Peters was a volunteer who worked on Landers’ 1997

mayoral campaign. She is the owner/operator of a local public relations firm, Progressive Marketing.

Rita Peters told Commission Supervising Investigator Dennis Pellon that Landers directed her: to design the billboard using the logo of his campaign – a star and Landers’ name in red, white, and blue lettering; to contact Adams Advertising to construct the billboard; and to get payment for the billboard from Colin Flaherty.<sup>7</sup>

Bob Adams is the former owner/operator of Adams Advertising, located in the City of Tustin. Bob Adams told Commission Supervising Investigator Dennis Pellon that he met with Landers in September 1997, at Landers’ office in Perris, to discuss the location and design of the billboard.

The billboard was erected on the Interstate 215 freeway, at the Ramona Expressway off-ramp. The billboard contained the logo of the Landers’ campaign, and read, “Prosperity in Perris - Vote Landers/Yarborough - Jobs, Jobs, Jobs - November 4th.”

Landers filed, or caused to be filed, with the Perris City Clerk, his committee’s pre-election campaign statement for the reporting period 7/1/97-9/20/97, that did not disclose the non-monetary contribution, in the form of a billboard, from Flaherty Communications in the amount of \$1,000.

After the billboard was erected, there was a controversy in Perris because the billboard was not reported in any campaign statement, or on any independent expenditure report. In statements made to Commission Supervising Investigator Dennis Pellon, Landers repeatedly denied having any involvement with the billboard.

Landers was involved in arranging for the billboard to be erected, and therefore should have reported the billboard as a non-monetary contribution from Flaherty Communications on his committee’s pre-election statement.

By failing to report the billboard on the pre-election campaign statement filed by the Committee to Elect Al Landers, Respondent Landers violated Section 84211.

Count 8: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose occupation and employer information for, and to report the cumulative amount of contributions received from, contributors of \$100 or more on the committee’s pre-election campaign statement, for the reporting period 7/1/97-9/20/97, in violation of Section 84211.

The pre-election campaign statement filed by the Committee to Elect Al Landers with the Perris City Clerk on September 25, 1997, disclosed about twenty-nine contributions of \$100 or more, but did not contain any occupation and employer information for the individual contributors. The column on the statement form, designated “Occupation and Employer,” was left blank. The majority of the

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<sup>7</sup> Landers claimed that while he was aware of the billboard, he did not know that Colin Flaherty was the person who paid for it.

contributors were individuals, and not businesses.

In addition, the pre-election campaign statement did not contain the cumulative amount of contributions received from persons making contributions of \$100 or more during the period covered by the pre-election campaign statement. The column on the statement form, designated "Cumulative To Date Calendar Year," was left blank.

By failing to disclose occupation and employer information for, and report the cumulative amount of contributions received from, persons making contributions of \$100 or more on the committee's pre-election campaign statement, Respondents Landers and Committee to Elect Al Landers violated Section 84211.

Count 9: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose occupation and employer information for, and to report the cumulative amount of contributions received from, contributors of \$100 or more on the committee's pre-election campaign statement for the reporting period 9/21/97-10/18/97, in violation of Section 84211.

The pre-election campaign statement filed by the Committee to Elect Al Landers with the Perris City Clerk on October 23, 1997, disclosed about four contributions of \$100 or more, but did not contain any occupation and employer information for the individual contributors. The column on the statement form, designated "Occupation and Employer," was left blank.

In addition, the pre-election campaign statement did not contain the cumulative amount of contributions received from persons making contributions of \$100 or more during the period covered by the pre-election campaign statement. The column on the statement form, designated "Cumulative To Date Calendar Year," was left blank.

By failing to disclose occupation and employer information for, and report the cumulative amount of contributions received from, persons making contributions of \$100 or more on the committee's pre-election campaign statement, Respondents Landers and Committee to Elect Al Landers violated Section 84211.

Count 10: Respondents Alfred Landers and Committee to Elect Al Landers failed to disclose occupation and employer information for, and to report the cumulative amount of contributions received from, contributors of \$100 or more on the committee's semi-annual campaign statement for the reporting period 10/19/97-12/31/97, in violation of Section 84211.

A semi-annual campaign statement filed by the Committee to Elect Al Landers with the Perris City Clerk on February 5, 1998, disclosed about six contributions of \$100 or more, but did not contain any occupation and employer information for the individual contributors. The column on the statement form, designated "Occupation and Employer," was left blank.

In addition, the semi-annual campaign statement did not contain the cumulative amount of

contributions received from persons making contributions of \$100 or more during the period covered by the semi-annual campaign statement. The column on the statement form, designated “Cumulative To Date Calendar Year,” was left blank.

By failing to disclose occupation and employer information for, and report the cumulative amount of contributions received from, persons making contributions of \$100 or more on the committee’s semi-annual campaign statement, Respondents Landers and Committee to Elect Al Landers violated Section 84211.

## **CONCLUSION**

Conflict of interest violations, such as those set forth in Counts 1-4, are among the most serious violations of the Act. The evidence establishes that Respondent Landers’ attempts to influence governmental decisions in which he had a financial interest were deliberate or grossly negligent violations. Landers knew, or should have known, that he had a financial interest in the decisions of the DHS and the CMAC, by virtue of his position on Valley Plaza’s Board of Trustees and receipt of income from affiliated entities of Gerald Garner, including Coast Plaza. Nonetheless, he attempted to use his official position to influence the decisions of these state agencies. Although Landers would not financially benefit from the decisions, Valley Plaza, Gerald Garner, and Coast Plaza clearly would benefit.

The failure to disclose the in-kind contribution, in the form of a billboard, was also a serious violation. The evidence establishes that the other campaign reporting violations set forth in Counts 5-6 and 8-10, while important, may have had a lesser degree of public harm.

Landers voluntarily filed amendments to his Statements of Interests, disclosing income and business positions, and filed an amendment to his committee’s pre-election campaign statement, disclosing the billboard contribution. Landers does not have any history of prior enforcement actions being taken against him.

This matter consists of ten counts, which carry a maximum possible penalty of Twenty-Thousand Dollars (\$20,000). The facts of this case including the factors discussed above, justify imposition of the agreed upon penalty of Fifteen Thousand Dollars (\$15,000).